

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1463-MWD-E **TCEQ ID:** RN101916666 **CASE NO.:** 34583
RESPONDENT NAME: City of Shepherd

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Shepherd Wastewater Treatment Facility ("WWTF"), approximately 1,400 feet northeast of the intersection of U.S. Highway 59 and State Highway 150, Shepherd, San Jacinto County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received April 29, 2007. The complainant alleged inflow and infiltration resulting in sewer system overflowing and depositing sludge on the ground. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Joe A. Cronin, Mayor Pro-tem, City of Shepherd, P.O. Box 248, Shepherd, Texas 77371 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: April 29, 2007</p> <p>Date of Investigation Relating to this Case: May 15, 2007</p> <p>Date of NOV/NOE Relating to this Case: July 12, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failed to prevent the discharge of floating solids from the Facility. Specifically, grease particulates were observed discharging to the receiving stream [30 TEX. ADMIN. CODE § 305.125(1) and (5), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11380001, Final Effluent Limitations and Monitoring Requirements No. 4, and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failed to maintain a firm pumping capacity consisting of at least two pumps at the Rolling Hills Lift Station. Specifically, one of the two pumps was missing [30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.3(c)(2) and TPDES Permit No. 11380001, Operational Requirements No. 1].</p> <p>3) Failed to operate and maintain the 59 North Lift Station. Specifically, two sides of the intruder-resistant fence were not installed, and the site grade was not being maintained to prevent the development of sink holes and uneven ground around the lift station [30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.3(e)(4)(C) and TPDES Permit No. 11380001, Operational Requirements No. 1].</p> <p>4) Failed to maintain the high level alarm light at the wastewater treatment plant lift station [30 TEX. ADMIN. CODE §§</p>	<p>Total Assessed: \$8,600</p> <p>Total Deferred: \$1,720 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$6,880</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has installed the repaired backup pump in the Rolling Hills Lift Station on September 10, 2007.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP).</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Repair or replace the fence at the 59 North Lift Station with an intruder-resistant fence of either a six foot high fence topped with a three-stranded barbed wire outrigger or an impenetrable eight foot fence;</p> <p>ii. Fine grade the 59 North Lift Station so to provide a safe working environment and to ensure the valve box is properly stabilized;</p> <p>iii. Repair or replace the visual high-level alarm at the on-site lift station at the wastewater treatment plant; and</p> <p>iv. Revise the operation and maintenance procedures for the Facility and/or the collection system to ensure that all blockage removals and cleaning operations in the collection system adequately captures and disposes of all grease and other solids to prevent the discharge of those solids from the Facility.</p> <p>b. Within 60 days after the effective date of this Agreed Order, develop and implement the compliance and enforcement procedures for the Respondent's grease ordinance to prevent the pass-through of and interference from grease at the wastewater treatment plant and within the collection system. The compliance and enforcement plan shall include, at a minimum the following:</p>

<p>305.125(1) and (5) and 317.3(e)(5) and TPDES Permit No. 11380001, Operational Requirement No. 1].</p>		<p>i. A list of each generator that has or requires a grease trap;</p> <p>ii. The pumping schedules for each grease trap;</p> <p>iii. Procedures the Respondent will implement to monitor the generator's compliance with the pumping and if the schedules are adequate;</p> <p>iv. Types of records to be maintained by each generator and the Respondent; and</p> <p>v. Identify the person responsible for overseeing the compliance and enforcement of the grease ordinance.</p> <p>c) Within 75 days after the date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.</p>
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Additional ID Nos.: Wastewater Permit WQ0011380001

Attachment A
Docket Number: 2007-1463-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Shepherd
Payable Penalty Amount:	Six Thousand Eight Hundred Eighty Dollars (\$6,880)
SEP Amount:	Six Thousand Eight Hundred Eighty Dollars (\$6,880)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	San Jacinto County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	16-Jul-2007	Screening	15-Aug-2007	EPA Due	
	PCW	26-Sep-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Shepherd		
Reg. Ent. Ref. No.	RN101916666		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34583	No. of Violations	4
Docket No.	2007-1463-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 115% Enhancement Subtotals 2, 3, & 7 \$4,600

Notes: The Respondent has one NOV for same or similar violations, five NOVs for other violations, 12 self-reported effluent violations, and two Agreed Orders with denial of liability.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$1,425	0% Enhancement*
Approx. Cost of Compliance	\$25,000	*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$8,600

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$8,600

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$8,600

DEFERRAL

20%

Reduction

Adjustment -\$1,720

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

 \$6,880

Screening Date 15-Aug-2007

Docket No. 2007-1463-MWD-E

PCW

Respondent City of Shepherd

Policy Revision 2 (September 2002)

Case ID No. 34583

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101916666

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	13	65%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 115%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has one NOV for same or similar violations, five NOVs for other violations, 12 self-reported effluent violations, and two Agreed Orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 115%

Screening Date 15-Aug-2007		Docket No. 2007-1463-MWD-E		PCW								
Respondent City of Shepherd		<small>Policy Revision 2 (September 2002)</small>										
Case ID No. 34583		<small>PCW Revision June 26, 2007</small>										
Reg. Ent. Reference No. RN101916666												
Media [Statute] Water Quality												
Enf. Coordinator Catherine Albrecht												
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>										
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 305.125(1) and (5), TPDES Permit No. 11380001, Final Effluent Limitations and Monitoring Requirements No. 4, and Tex. Water Code § 26.121(a)</div>										
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failed to prevent the discharge of floating solids from the Facility. Specifically, grease particulates were observed discharging to the receiving stream.</div>										
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>								
>> Environmental, Property and Human Health Matrix												
OR	<table border="1" style="margin: auto;"> <tr> <td></td> <th colspan="3">Harm</th> </tr> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> </table>					Harm				Major	Moderate	Minor
		Harm										
		Major	Moderate	Minor								
	Release											
Actual	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;">x</div>									
Potential	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>									
Percent				<div style="border: 1px solid black; padding: 2px;">10%</div>								
>> Programmatic Matrix												
Matrix Notes	<table border="1" style="margin: auto;"> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> </table>					Major	Moderate	Minor				
		Major	Moderate	Minor								
	Falsification											
	Actual	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>								
Potential	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>									
Percent				<div style="border: 1px solid black; padding: 2px;">0%</div>								
<div style="border: 1px solid black; padding: 2px;">Failure to prevent the unauthorized discharge of solids in the effluent discharge resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.</div>												
Adjustment				<div style="border: 1px solid black; padding: 2px;">\$9,000</div>								
				<div style="border: 1px solid black; padding: 2px;">\$1,000</div>								
Violation Events												
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>	Number of violation days									
		<div style="border: 1px solid black; padding: 2px;">89</div>										
mark only one with an x	daily	<div style="border: 1px solid black; padding: 2px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px;">\$1,000</div>									
	monthly	<div style="border: 1px solid black; padding: 2px;"></div>										
	quarterly	<div style="border: 1px solid black; padding: 2px;">x</div>										
	semiannual	<div style="border: 1px solid black; padding: 2px;"></div>										
	annual	<div style="border: 1px solid black; padding: 2px;"></div>										
	single event	<div style="border: 1px solid black; padding: 2px;"></div>										
<div style="border: 1px solid black; padding: 2px;">One quarterly event is recommended from the investigation date of May 15, 2007 to the screening date of August 15, 2007.</div>												
Economic Benefit (EB) for this violation			Statutory Limit Test									
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$997</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px;">\$2,150</div>									
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$2,150</div>								

Economic Benefit Worksheet

Respondent City of Shepherd
Case ID No. 34583
Reg. Ent. Reference No. RN101916666
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	15-May-2007	1-Jun-2008	1.0	\$17	\$350	\$367
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$12,000	15-May-2007	1-Jun-2008	1.0	\$630	n/a	\$630
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of developing and implementing an effective grease cleaning and removal program for the collection system and lift stations based on \$1,000 per month and implementing, monitoring, and enforcing the existing grease ordinance to prevent excessive fats, oils, and grease from entering the collection system. Date required is the investigation date. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$17,000

TOTAL

\$997

Screening Date 15-Aug-2007

Docket No. 2007-1463-MWD-E

PCW

Respondent City of Shepherd

Policy Revision 2 (September 2002)

Case ID No. 34583

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101916666

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (5) and 317.3(c)(2) and TPDES Permit No. 11380001, Operational Requirements No. 1

Violation Description

Failed to maintain a firm pumping capacity consisting of at least two pumps at the Rolling Hills Lift Station. Specifically, one of the two pumps was missing.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to maintain the required pumping capacity at a lift station could result in the exposure of a significant amount of contaminants which may not exceed levels protective of human health and the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

89 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of May 15, 2007 to the screening date of August 15, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$57

Violation Final Penalty Total \$2,150

This violation Final Assessed Penalty (adjusted for limits) \$2,150

Economic Benefit Worksheet

Respondent City of Shepherd
Case ID No. 34583
Reg. Ent. Reference No. RN101916666
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$2,500	15-May-2007	10-Sep-2007	0.3	\$3	\$54	\$57
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of repairing the second pump for the Rolling Hills Lift Station. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$57

Screening Date 15-Aug-2007

Docket No. 2007-1463-MWD-E

PCW

Respondent City of Shepherd

Policy Revision 2 (September 2002)

Case ID No. 34583

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101916666

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (5) and 317.3(e)(4)(C) and TPDES Permit No. 11380001, Operational Requirements No. 1

Violation Description

Failed to adequately operate and maintain the 59 North Lift Station. Specifically, only two sides of the intruder-resistant fence were installed, and the site grade was not being maintained to prevent the development of sink holes and uneven ground around the lift station.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to adequately operate and maintain the lift station could result in the exposure of a significant amount of contaminants which may not exceed levels protective of human health and the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

89 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of May 15, 2007 to the screening date of August 15, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$338

Violation Final Penalty Total \$2,150

This violation Final Assessed Penalty (adjusted for limits) \$2,150

Economic Benefit Worksheet

Respondent City of Shepherd
Case ID No. 34583
Reg. Ent. Reference No. RN101916666
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	15-May-2007	1-May-2008	1.0	\$16	\$321	\$338
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of constructing an intruder-resistant fence and completing the fine-grading of the ground surrounding the lift station. Date required is the investigation date. Final date is the projected date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance****\$5,000****TOTAL****\$338**

Screening Date 15-Aug-2007

Docket No. 2007-1463-MWD-E

PCW

Respondent City of Shepherd

Policy Revision 2 (September 2002)

Case ID No. 34583

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101916666

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (5) and 317.3(e)(5) and TPDES Permit No. 11380001, Operational Requirements No. 1

Violation Description Failed to maintain the high level alarm light at the wastewater treatment plant lift station.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to adequately maintain a lift station could result in the exposure of a significant amount of contaminants which may not exceed levels protective of human health and the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

89 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of May 15, 2007 to the screening date of August 15, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$2,150

This violation Final Assessed Penalty (adjusted for limits) \$2,150

Economic Benefit Worksheet

Respondent City of Shepherd
Case ID No. 34583
Reg. Ent. Reference No. RN101916666
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$500	15-May-2007	1-May-2008	1.0	\$2	\$32	\$34
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of repairing the visual alarm at the on-site lift station. Date required is the investigation date.
 Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$34

Compliance History

Customer/Respondent/Owner-Operator:	CN600656458	City of Shepherd	Classification: AVERAGE	Rating: 8.52
Regulated Entity:	RN101916666	CITY OF SHEPHERD	Classification: AVERAGE	Site Rating: 8.52
ID Number(s):	WASTEWATER WASTEWATER SLUDGE WASTEWATER LICENSING	PERMIT PERMIT REGISTRATION LICENSE		WQ0011380001 TPDES0054160 22367 WQ0011380001
Location:	Approximately 1,400 feet northeast of the intersection of US Highway 59 and State Highway 150, Shepherd, San Jacinto County			Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	August 09, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 09, 2002 to August 09, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Catherine Albrecht	Phone:	(713)767-3672	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/13/2003	ADMINORDER 2002-0065-MLM-E
Classification: Moderate	
Citation: 2C TWC Chapter 20, SubChapter A 26.121(a)(1)	
30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: cond 2(g) PERMIT	
Description: Failure to prevent unauthorized discharges.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
30 TAC Chapter 305, SubChapter F 305.125(9)(A)	
Rqmt Prov: Req 7 PERMIT	
Description: Failure to notify TCEQC of an unauthorized discharge w/in the required notification period.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: OR 1 PERMIT	
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: OP1 PERMIT	
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: OP 1 PERMIT	
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: req 7(c) PERMIT	
Description: Failure to notify the TNRCC Regional Office and the Manager of the Water/MM Section of the Enforcement Division, w/in the required notification period, for exceeding effluent limits.	
Classification: Moderate	
Citation: 2C TWC Chapter 20, SubChapter A 26.121(a)(1)	
30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: 1 PERMIT	
Description: Failure to prevent unauthorized effluent discharges which deviated from the permitted effluent limits.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: req 1 PERMIT	
Description: Failure to monitor effluent quality as required by the permit.	

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: pg 25 sec III G PERMIT

Description: Failure to submit an annual sludge report to the TNRCC Regional Office and TNRCC Database and Administration Team of the Enforcement Division by 9/1 of each yr.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)[G]

30 TAC Chapter 317 317.4(a)(8)

Description: Failure to conduct the required annual testing of the backflow prevention assembly.

Effective Date: 10/10/2005

ADMINORDER 2004-0738-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/28/2002 (307225)
2 08/28/2002 (307228)
3 08/28/2002 (307231)
4 08/28/2002 (307234)
5 10/07/2002 (307237)
6 10/08/2002 (247072)
7 10/15/2002 (307240)
8 12/30/2002 (307242)
9 12/30/2002 (307244)
10 01/23/2003 (307246)
11 06/13/2003 (185989)
12 06/13/2003 (185986)
13 06/13/2003 (185982)
14 06/13/2003 (185980)
15 08/22/2003 (307229)
16 08/22/2003 (307232)
17 08/22/2003 (307235)
18 10/31/2003 (307238)
19 10/31/2003 (307241)
20 12/05/2003 (307243)
21 01/14/2004 (307245)
22 01/14/2004 (307247)
23 02/18/2004 (283337)
24 03/15/2004 (307218)
25 03/15/2004 (307223)
26 03/15/2004 (307226)
27 04/07/2004 (267659)
28 06/21/2004 (356785)
29 07/09/2004 (332939)
30 08/04/2004 (356786)
31 08/04/2004 (356787)
32 08/30/2004 (356788)
33 10/25/2004 (356789)
34 10/25/2004 (356790)
35 11/16/2004 (340123)
36 12/09/2004 (356791)
37 03/10/2005 (384477)
38 03/10/2005 (384479)
39 03/15/2005 (392431)
40 03/22/2005 (384478)
41 04/14/2005 (422420)
42 05/03/2005 (379338)
43 06/01/2005 (422421)
44 06/27/2005 (422423)
45 06/30/2005 (422422)
46 07/27/2005 (443360)
47 08/18/2005 (443361)
48 09/08/2005 (431039)
49 10/19/2005 (473151)
50 10/19/2005 (473152)
51 01/03/2006 (473153)
52 01/23/2006 (473155)
53 01/23/2006 (473156)
54 02/24/2006 (496990)

55 03/01/2006 (473154)
56 03/31/2006 (473148)
57 03/31/2006 (473149)
58 03/31/2006 (473150)
59 07/10/2006 (501363)
60 07/10/2006 (501364)
61 08/10/2006 (523606)
62 08/10/2006 (523607)
63 08/31/2006 (510289)
64 09/27/2006 (548556)
65 10/18/2006 (531017)
66 10/18/2006 (548557)
67 10/20/2006 (513651)
68 12/06/2006 (548558)
69 12/20/2006 (548559)
70 01/10/2007 (548560)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/08/2002 (247072)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/31/2003 (307229)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2003 (307238)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (307241)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2003 (307243)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (356786)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2004 (356787)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/09/2004 (332939)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 11/17/2004 (340123)
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT OpR 1
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT OpR 1
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT OpR 1
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT M&RR 7.C
Description: Failure to submit noncompliance notification as required by the permit
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT OpR 1
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT FEL&MR 4
Description: Failure to prevent the discharge of floating solids.

Date: 03/15/2005 (392431)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 01/31/2006 (473148)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/24/2006 (496990)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 02/28/2006 (473149)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2006 (473150)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (501363)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (501364)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (523606)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/18/2006 (531017)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SHEPHERD
RN101916666**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1463-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Shepherd ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately 1,400 feet northeast of the intersection of U.S. Highway 59 and State Highway 150 in Shepherd, San Jacinto County, Texas (the "Facility").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about July 17, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Six Hundred Dollars (\$8,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

One Thousand Seven Hundred Twenty Dollars (\$1,720) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Six Thousand Eight Hundred Eighty Dollars (\$6,880) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has installed the repaired backup pump in the Rolling Hills Lift Station on September 10, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to prevent the discharge of floating solids from the Facility, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11380001, Final Effluent Limitations and Monitoring Requirements No. 4, and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on May 15, 2007. Specifically, grease particulates were observed discharging to the receiving stream.
2. Failed to maintain a firm pumping capacity consisting of at least two pumps at the Rolling Hills Lift Station, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.3(c)(2) and TPDES Permit No. 11380001, Operational Requirements No. 1, as documented during an investigation conducted on May 15, 2007. Specifically, one of the two pumps was missing.
3. Failed to operate and maintain the 59 North Lift Station, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.3(e)(4)(C) and TPDES Permit No. 11380001, Operational Requirements No. 1, as documented during an investigation conducted on May 15, 2007. Specifically, two sides of the intruder-resistant fence were not installed, and the site grade was not

being maintained to prevent the development of sink holes and uneven ground around the lift station.

4. Failed to maintain the high level alarm light at the wastewater treatment plant lift station, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.3(e)(5) and TPDES Permit No. 11380001, Operational Requirement No. 1, as documented during an investigation conducted on May 15, 2007.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Shepherd, Docket No. 2007-1463-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Eight Hundred Eighty Dollars (\$6,880) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effectively date of this Agreed Order:
 - i. Repair or replace the fence at the 59 North Lift Station with an intruder-resistant fence of either a six foot high fence topped with a three-stranded barbed wire outrigger or an impenetrable eight foot fence;
 - ii. Fine grade the 59 North Lift Station to provide a safe working environment and to ensure the valve box is properly stabilized;

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- iii. Repair or replace the visual high-level alarm at the on-site lift station at the wastewater treatment plant; and
 - iv. Revise the operation and maintenance procedures for the Facility and/or the collection system to ensure that all blockage removal and cleaning operations in the collection system adequately captures and disposes of all grease and other solids to prevent the discharge of those solids from the Facility.
- b. Within 60 days after the effective date of this Agreed Order, develop and implement the compliance and enforcement procedures for the City's grease ordinance to prevent the pass-through of and interference from grease at the wastewater treatment plant and within the collection system. The compliance and enforcement plan shall include, at a minimum the following:
- i. A list of each generator that has or requires a grease trap;
 - ii. The pumping schedules for each grease trap;
 - iii. Procedures the City will implement to monitor the generator's compliance with the pumping and if the schedules are adequate;
 - iv. Types of records to be maintained by each generator and the City; and
 - v. Identify the person responsible for overseeing the compliance and enforcement of the grease ordinance.
- c. Within 75 days after the date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdlier

For the Executive Director

2/7/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Joe A. Cronin

Signature

11-15-07

Date

Joe A. Cronin

Name (Printed or typed)
Authorized Representative of
City of Shepherd

Mayor Pro Tem

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1463-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Shepherd
Payable Penalty Amount:	Six Thousand Eight Hundred Eighty Dollars (\$6,880)
SEP Amount:	Six Thousand Eight Hundred Eighty Dollars (\$6,880)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	San Jacinto County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

